

## Canada's role in 'snow washing' money to evade taxes

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Canadians should be concerned that our good name is being used to add credibility to companies and individuals potentially seeking to commit tax crimes and to wash the proceeds of global fraud and corruption.

As a Canadian practising law and operating out of the British Virgin Islands (BVI), any mention of Mossack Fonseca together with Canada is guaranteed to capture my attention.

My law firm seeks to recover assets stolen by international fraud and grand corruption. As such, a recent joint exposé by the CBC, Radio Canada and the Toronto Star caught my attention. When the Panama Papers scandal broke in April 2016, the world's focus turned on the BVI. The actions of the Mossack Fonseca offices here generated much of the criticism heaped on this small Caribbean territory.

The world's media descended on our picturesque island of Tortola. The golden thread running through most of the attacks against offshore financial centres in the subsequent coverage was an ideological one: that "the 1 per cent" made too much money and used offshore company structures to conceal it.

I lost count of how many TV, radio and print interviews I conducted in an effort to respond to the onslaught.

The offshore industry in the BVI is not perfect. Neither are the offshore financial centres in Cayman, Scotland, Canada and most notably in the U.S., where Delaware is effectively the most "secretive" of all offshore company platforms (along with Nevada). It is disappointing that the U.S. criticizes all the other offshore providers, yet effectively ignores its own.

As for the word "secretive," why is it synonymous with offshore companies? Canada was considered by Mossack Fonseca's tax advisers to be an excellent place to hide assets. Toronto tax lawyer Jonathan Garbutt aptly described the process of making a company "appear Canadian" (by placing wealth of doubtful origin into a vehicle that is purpose-built to cleanse it) as "Snow Washing." He said this procedure made the company appear to be as pure as the "driven snow in the Great White North."

It's the same as using a Scottish offshore limited partnership. Ostensibly, Canada and the U.K. strictly regulate financial services. In reality, they all but rubber-stamp the formation of a locally incorporated business entity.

It is repugnant that directors of some Canadian companies could have lied to the Canada Revenue Agency, based on advice apparently given by email from a Mossack Fonseca director. This is organized tax evasion at its most base. The author of these emails and anyone who acted upon this advice should be prosecuted. If it is true that Mossack Fonseca employees "manufactured" email chains and documents to mislead tax authorities, then this is an apparent criminal conspiracy and should be investigated.

Forensic accountant Peter Dent, from anti-corruption NGO Transparency International, said he often hits brick walls in his Canadian investigations. In order to get hold of the Holy Grail of fraud investigation — genuine Ultimate Beneficial Ownership (UBO) identification documents — you need to produce some evidence of apparent wrongdoing on the part of a target company to convince a magistrate to sign a disclosure order or warrant. But having gained access to a Canadian company's records, you'll often be faced with a total lack of UBO identifiers.

Those UBO identifiers need to be made available: not only to frustrate tax evaders, fraudsters and money launderers, but potentially terrorists, who might use the anonymity associated with underregulated companies to fund their murderous activities.

Anti-money-laundering (AML) regulations also need to be extended to incorporators of all Canadian companies, and those companies need to "know their customer." This would help bring Canada up to the Financial Action Task Force's global standard for combating money laundering.

It's ironic that incorporators of BVI and Cayman companies have been required to adhere to this standard of AML compliance for several years, while big, dumb and happy onshore jurisdictions have been left alone.

Any system of regulation is only as good as the weakest link in its chain. Canada has shown there is still much more to do before it can prevent "snow washing."



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